

REMARKS

Applicant has studied the Office Action dated December 15, 2004, and has made amendments to the claims. Claim 6 has been canceled without prejudice. Claim 1 has been amended. No new matter has been added. It is submitted that the application, as amended, is in condition for allowance. Reconsideration is respectfully requested.

Rejection under 35 U.S.C. § 102

Claims 1-5 and 7 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,768,034, to Marino ("Marino"). This rejection is respectfully traversed.

A proper rejection for anticipation under § 102 requires complete identity of invention. The claimed invention, including each element thereof as recited in the claims, must be disclosed or embodied, either expressly or inherently, in a single reference. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991); Standard Havens Prods., Inc. v. Gencor Indus., Inc., 953 F.2d 1360, 1369, 21 U.S.P.Q.2d 1321, 1328 (Fed. Cir. 1991).

On page 2 of the Office Action, the Examiner stated that claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of this, independent claim 1 (the base claim of original claim 6) has been amended to incorporate the features of original claim 6. As amended, it is respectfully submitted that claim 1 is now allowable over the prior art. Furthermore, because claims 2-5, 7 and 8 depend, either directly or indirectly, from amended claim 1, it is also submitted that these claims overcome the prior art.

Claim 8

The Examiner in the Office Action made no reference to original claim 8. However, Applicant respectfully submits that claim 8 was originally presented along with original claims 1-7 when the application was originally filed. In view of this, and in view of claim 8 being dependent on amended claim 1, Applicant respectfully requests that claim 8 be considered and allowed.

CONCLUSION

In light of the above remarks, Applicant submits that the present Amendment places all claims of the present application in condition for allowance. Reconsideration of the application, as amended, is requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

Lee, Hong, Degerman, Kang & Schmadeka

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By: _____



Lew Edward V. Macapagal

Registration No. 55,416

Attorney for Applicant

Customer No. 035884

Lee, Hong, Degerman, Kang & Schmadeka
801 S. Figueroa Street, 14th Floor
Los Angeles, California 90017
Telephone: 213-623-2221
Facsimile: 213-623-2211